

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

STEPHEN D. CAIAZZO,

Plaintiff,

v.

THE MEDALLION INSURANCE
AGENCIES, INC.,

Defendant

CIVIL ACTION NO.
04-12627 RCL

**DEFENDANT, MEDALLION INSURANCE AGENCIES, INC.'S, MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

The defendant, Medallion Insurance Agencies, Inc. ("Medallion"), hereby moves to dismiss this action pursuant to Fed. R. Civ. P. 11, and the inherent power of the federal court to regulate and control fraud upon the court.

In preparing for trial over the last several weeks, defense counsel has come into possession of admissible evidence which establishes (a) to a certainty, that plaintiff pressed his claim for alleged uninsured property loss after having been paid in full for such loss, without disclosing this critical fact of payment to Medallion or this court, in a fraudulent attempt to be paid twice for the same loss, and to deprive Medallion of its rights of subrogation; (b) to a high degree of probability, that plaintiff pressed his claim for alleged uninsured property loss when, in fact, no such loss had occurred, insofar as Medallion has just identified a witness who will testify that he purchased the allegedly lost property from the plaintiff. This evidence reveals a fraudulent design on the plaintiff's part to be paid a *third time* for the allegedly lost property.

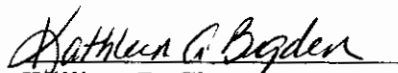
As further described in the accompanying Memorandum, the plaintiff has advanced a scheme to defraud this Honorable Court by seeking double recovery of the damages listed in Count III of the Complaint. Going one step further, Medallion has also recently learned that most if not all of the property which was the subject of Count III of the Complaint was not lost, but was in fact sold to a buyer for a lump-sum amount. There is substantial evidence that plaintiff has perpetuated a fraud on Medallion and this court through false deposition testimony, deliberate efforts to conceal material facts, and the continued, active prosecution of Count III against Medallion in bad faith, after a full recovery of those exact damages had been obtained in a separate action in the Salem District Court. Dismissal of the entire action is warranted pursuant to Fed. R. Civ. P. 11, and the inherent power of the federal court. The detailed factual and legal grounds for Defendant's motion are included in the accompanying Memorandum of Law.

WHEREFORE, the Defendant, Medallion Insurance Agencies, Inc., hereby request that this Honorable Court dismiss the Plaintiff's Complaint in its entirety.

REQUEST FOR ORAL ARGUMENT

In accordance with Local Rule 7.1 (d), Defendant hereby requests oral argument on this matter.

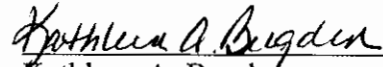
MEDALLION INSURANCE AGENCIES,
INC. By its attorneys,


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CERTIFICATE OF SERVICE

I, Kathleen A. Bugden, hereby certify that on this day, I forwarded notice of the foregoing document(s) by hand to the following:

Dean Carnahan, Esq.
LAW OFFICES OF DEAN CARNAHAN
126 Broadway
Arlington, MA 02474


Kathleen A. Bugden

Date: February 26, 2007